1912
[Courts]

File No. 344-12

Serial Nos 1-4

September-13

Inspection of the Courts of the District Magistrate, Bangalore.

Previous references.

1912.

(Courts)

File No. 344 – 12

Serial Nos. 1–4

Later references.

Cf. 157-13-8

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1–4

Part B. for September 13.

SUBJECT.

Inspection of the courts of the District Magistrate Bangalore

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2) To the Regr Ch court & Mr BJK Naik Dist magte Tumkur No J 891-2 Dr 11-9-13.
Reviews the notes of inspection, Expresses regret that Mr K Naik should have failed in almost every way in the despatch of criminal work & Conveys to him the displeasure of Govt therefor.

3) To Dt magtes of Districts No J 1058-65 Dr 23 . 9 . 13
Communicates to all the Dist magtes the observation of Govt on the irregularities brought to notice during the inspection of the Court

G. R. S. **58** of one of the District magtes

4) To the Regr Ch court No J 1057 Dr 23 . 9 . 13
Requests that the courts of other Dist magtes may similarly be inspected and its result reported to Government.

Mysore Archives 4/12/13

G.R.S. 11] 1912-13

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 3444 1912-13

FILE HEADING.

Inspection of the Court of the District Magistrate of Bangalore

From

The Registrar, Chief Court

No. 4300/334 Dated 19/21. 6. 13 Received 22. 6. 13

Diary No. 9368 5	Enclos. 1	Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards for information a copy of the note of inspection of the Court of the District Magistrate of Bangalore by the Chief Judge

NOTES AND ORDERS.

1 The chief defects pointed out in the note of inspection are:

1. That there is much delay in the disposal of cases by the Dist. Mgte. vide paras 13, 15, 20 & 30 of the note.

Flagged O

P.T.O

NOTES—First Sheet.

GPB—30,000—12-8-11

General and Revenue Secretariat. | 65 File No. 344 of 1912-13

Serial No.

2. that judgments & orders are not written & dated as req^d by the provisions of Sec^n 367 of the Cr. Pro. Code vide paras 7 & 45 & para 32.

3. that the Dist. Mgte. does not look into the applications before he passes orders on them - vide para 27 - and that orders of addl^s are misleading - vide para 28.

4. that no attempt has been made to have the records arranged according to rules and that despatch of records has not at all been attended to - vide paras 43 & 48.

5. that the rules of practice regarding the maintenance of registers, preparation of cause lists and punching of stamps & maintenance of stamp accounts have not been followed - vide para 42 & 46.

6. that the subordinate civil courts have not been inspected by the District Magistrate except one vide para 51.

6x^l Dfst putup for refg

Subd.

Lg.-129 SW

26/6/13 (On tour) SPM 27/6

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

R. S. 12]

General and Revenue Secretariat.

G/S File No. 344 of 1912-13

Serial No.

2 The detailed Inspection Notes of the Chief Judge discloses such a slack & disorganized state of things in the Cmty of the District Mag of Bangalore as to justify the step of calling upon the Officer concerned to offer his explanation. On receipt of it the report may be suitably communicated to the Govt.

(1st Councillor)

Dwg of Clerk
29/6
SR

3 I do not see any ~~reason~~ to use in calling for any explanation. The defects may be noticed (except that of not reading reports which refers to a single case) and it may be added that unless D.C.s pay more attention to prompt and regular despatch of Civil work they cannot ~~expect~~ set a good example ~~that their subordinates~~ themselves it can hardly be expected that they be able to will efficiently supervise the work of subordi-

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

3685

G. R. S. 12]

General and Revenue Secretariat.

Cs File No. 344 of 1912-13.

Serial No.

Note Mayles. Govt regret to observe that Mr. K Nath has failed in almost every way as regards this important branch of work, and cannot help expressing their displeasure. They trust that this will serve as a due warning against similar neglect in the new district to which he has been lately transferred.

(Draft please & submit to Dewan).

1/7/13

Rec'd 4/7

4 Subd with a draft order

SW 4-7-13

Dn Secy

SM 8/7

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

5

3685

G. R. S. 12]

General and Revenue Secretariat.

c/o File No. 344 of 1912

Serial No.

Draft in accordance with the Note of the 1st Councillor is put up.

3890/9.7.13

Dewan

Draft agreed 9/7 SPL

P.T.O.

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

Submitted to His Highness.

Paper under disposal'

Draft for approval'.

6 I submit for His Highness's orders the notes of inspection, by the Chief Judge, of the Court of the District Magistrate of Bangalore and a draft order of Government proposed to be issued thereon. The draft is in accordance with the views of the First Councillor and may be approved. The Chief Court will be requested demi-officially to inspect the Courts of the other District Magistrates similarly, and report the result to Government.

M. Kamaraja.
18 Sep. 1913.

RTC

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Draft order on the notes of inspection by the Chief Judge of the Court of the District Magistrate of Bangalore.

214

Order.

7 Approved
~~KRW~~
3/9/13

Secretary
3.9.13.

B III
6/9/13.

9 Draft d.o.
See Submn. Note
8/9

10 Issue Order (copy)
+ further draft d.o.
8/9

3185

C. R. S. 12]

General and Revenue Secretariat. | Ch File No. 344 of 1912-13

Serial No.

2

To The Registrar, Chief Court
Mr B. J. Kumaraswami Naik,
Dist. Magistrate, Tumkur
No. J 891-2 Dt 11th Sept 13.

Reviews the note of inspection, expresses regret that Mr Kumaraswami Naik should have failed in almost every way in the despatch of criminal work and conveys to him the displeasure of Govt. Therefor.

11 The observation contained in the 1st sentence of para 2 of the above proceg refers to all the Dist. Mgts. May the order, therefore, be communicated to them all making the necessary omissions as directed in addendum no 18 to Rule 182 of the Office Manual?

Flag O

= 4

Detached

12 Subo for orders.

Ug. - 116
15-9-13

13 Yes: Draft please

SDR
16/9

14 The above order with the necessary omissions is remitted and subd.

Ug. - 116 Draft of a d.o. to the Registrar, Chief Court, as per para 6 is also subd.

Ug. - 116
16-9-13

17 Dy Secy

SDR
17/9

NOTE—Contn. sheet.

GIP—65,000—17-6-12.

[R. S. 12]

General and Revenue Secretariat. | File No. | of 191

Serial No.

15 Both the drafts may be approved. Please See paras 3 & 6.

(1st correction)

Drug & Law 7/9/13

18/9/13

B 25/9

B 18/9 Draft 18/9 = 110

16 Issued JPL 18/9

3 To Dt magts of Districts No 1058-65 Dt. 23.9.13

Communicates to all the Dist magts the observation of Govt on the irregularities brought to notice during the inspection of the Court of one of the Dist magts.

4 To the Registrar, Chief Court No 1057 Dt 23-9-13

Requests that the Courts of other District Magistrates may similarly be inspected and the result reported to Government

NOTE—Contn. sheet.

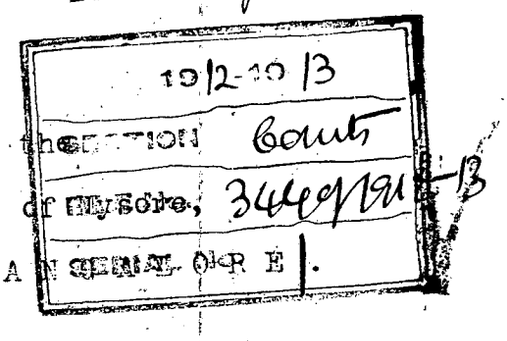
GPB—65,000—17-6-12.

no: 4300/334 Enc one

Chief Court of Mysore,

Bangalore, dated 19th June 1913.

DIARY No. J. 3685.



From

The Registrar of the Chief Court of Mysore,
BANGALORE.

To

The Secretary to the
Government of Mysore,
General and Revenue Departments.

S i r ,

I am directed to forward for the information of Government a copy of the Notes of Inspection of the court of the District Magistrate of Bangalore made by the Chief Judge on 27th March, 2nd and 14th April 1913.

I have the honor to be,

S i r ,

Your most obedient servant,

Ag: R E G I S T R A R .

H.C.C.

187.

Encl to CS 344-12-1

NOTES OF INSPECTION OF THE COURT OF THE DISTRICT MAGISTRATE OF BANGALORE BY THE CHIEF JUDGE.

Dates of Inspection :- 27th March 1913, 2nd and 14th April 1913.

----::0::----

This Court was last inspected by the Chief Judge (Mr. Justice A.E. Staley) on 22nd February 1906 when it was presided over by Mr. D.Devaraja Urs. Mr. H.H.Sparkes who succeeded the latter presided over the Court till the end of 1906-07. Mr. Devaraja Urs again took charge of the Court in the beginning of 1907-08 and continued to be in charge till he was succeeded by Mr. B.J.Kumarasami Naik on 23rd March 1908. Since this latter date Mr. Kumarasami Naik has been in charge of the Court.

2. Since the date of last inspection, the institutions were as shown below :-

What?

1905-07.....	12
1907-08.....	2
1908-09.....	5
1909-10.....	2 θ
1910-11.....	4
1911-12.....	2
1912-13.....	nil.

θ Shown in Register I by mistake as 3.

3. It is not apparent why there was such a falling off in the number of institutions subsequent to 1906-0[illegible] Of the 15 cases disposed of in the years 1907-08 to 1911-12, four were under the Infant Marriage Regulation involving little or no trouble, while the remaining 11 were cases sent up for enhanced [illegible]

under section 349 Criminal Procedure Code.

4. It is a circumstance worthy of note that, although between 1907-08 and 1912-13, as many as 11 cases were transferred by the District Magistrate from the file of ~~I~~ one first class Magistrate to that of another subordinate to him, he did not think ~~a~~ it fit to take up and dispose of any of those cases himself.

5. It is ascertained from the Judicial Head Munshi that when complaints are filed in this Court and referred by the District Magistrate for trial to a Court subordinate to him, no ~~notice~~ note is made of the fact in any register kept in the Court. This practice appears to me to be exceedingly irregular, since the act of the District Magistrate in transferring the case to another Magistrate is a judicial act [vide section 192 (1) Cr. Pro. Code] and should find a place in ~~the~~ Register No. III. In future, when such transfers are made, an entry should be made in the said Register showing the nature of the complaint, the name of the complainant, the name of the accused person, the offence charged against the latter and the substance and the date of the order passed on the complaint petition. It may in this connection be noted that in 1906-07 a complaint under Act XIII of 1859 which was filed in this Court and which was transferred to the City Magistrate of Bangalore, was entered in Register III during the time Mr.Sparkes was ~~a~~ District Magistrate (vide His: Case No. 4 of 1906-07).

vide Page 80 of the Bk right pointer

6. In consequence of such entries not having been made in recent years, it is not now possible to say how many complaints of this kind were filed in the ~~Di-~~ District Magistrate's Court, of what nature they were

and how many of them the District Magistrate could have himself disposed of.

7. Case No. 2 of 1908-09.

This was a case under the Infant Marriage Regulation in which the Police placed the charge sheet before the Magistrate on 3-8-1908. Processes were ordered to issue to the accused persons and they were made returnable on 22-8-1908. On this date the accused appeared before the Court, but owing to the intervention of other work, the case was adjourned to 24-8-1908. On this latter date, the case was closed for the prosecution and adjourned to 15th September 1908 for the examination of the defence witnesses. Though the defence witnesses were present on the date of hearing, the case was adjourned to 16-9-1908 without any reasons being assigned for the adjournment. On this last mentioned date, one witness for defence was examined and the case was adjourned to 17-9-1908 for no reasons. On 17-9-1908 the remaining witnesses for the defence were examined and the case was adjourned to 18-9-08 for the examination of "the records". What is meant by the expression "the records" it is difficult to say. On the 18th September 1908, the Magistrate apparently examined the records, but thought he should have the 02 Births and Deaths Register of Marlwadi village for 1902-03 and adjourned the case to 28th September 1908 for the production of that document. Judgment was then finally pronounced on that day. In this case, as in many other cases, the order passed by the Magistrate on the order sheet are all in the handwriting of the clerks.

Vide Sec 367 of the Cr. Pro. Code

8. Case No. 4 of 1908-09.

In this case, the accused persons were sent up by the Amildar Magistrate of Kankanhalli on 9-12-1908 for enhanced punishment under section 349 Criminal Procedure Code. The record does not show that any order was passed by the Magistrate remanding the accused to custody and fixing a date of hearing for the disposal of the case, although a note has been made in Register No.I that the accused was in the lock-up from 9-12-1908 to 12-12-1908. On this latter date, the case was taken up and disposed of.

9. Case No. 5 of 1908-09.

This was also a case sent up under section 349 Criminal Procedure Code by the Taluk Magistrate of Doddballapur. The record was received on 23-6-1909 and the accused person was also produced before the Court on the same day. He was remanded to the Central Jail with a direction that he should be produced on 24-6-09. On this date, the accused was again remanded and ordered to be brought back on 5-7-1909. On this date, nothing was done and the case was adjourned (for want of time) to 6th July 1909 on which date the Magistrate pronounced judgment after perusing the record and hearing the accused. Although the orders in the Order sheet of this case are to the effect that the accused persons were remanded to the Central Jail, the note made in ~~this~~ Register No. I is that they were in "magisterial" custody. What is meant by the expression "magisterial custody" it is difficult to understand; it certainly could not have been that the accused was in the custody of the Court, that is to say, of an officer or peon of the court.

Sec 367 of Cr.P. Code

10. The orders of adjournments in this case as well as in the other cases mentioned below which are all in the handwriting of the clerks, were only signed by the District Magistrate this morning.

Case No.2 of 1909-10
-Do- 1 of 1910-11.
-Do- 3 of 1910-11.
-Do- 4 of 1910-11.

11. Case No. 2 of 1909-10.

This was also a case sent up by the Taluk Magistrate of Anekal under section 349 C.P.C. The proceedings were received in this Court on 28-2-1909. On this date, the case was posted for hearing to 3-9-09 and the accused was remanded to the Central Jail, Bangalore. In the meantime, that is, on 31-8-1909, on the motion of the accused's counsel, the accused was ordered to be let on bail. On the date of hearing, viz, 3-8-1909, the case was adjourned to 7-9-1909. At the request of the Counsel for the accused, the case was again adjourned to 24-9-1909. On this date the Counsel for the defence was heard and the case was adjourned to 5-10-1909 for hearing the arguments of the prosecution Counsel. The prosecution Counsel being ill, the case was first adjourned to 12-10-1909, and then to 6-11-1909. On this last mentioned date, Mr. Subbanna the Counsel for the prosecution was heard, but the judgment was not pronounced until 17-1-1910, or nearly 2½ months after the case had been closed and the arguments on both sides were heard. The case terminated in the acquittal of the accused. In connection with this case, I may note that although there were as many as 8 adjournments, only one is noted in column 14 of Register I.

Vide Page 79 of the Govt Digest.

12. Cases Nos. 2 of 1908-09; 2 of 1910-11; 3 of 1910-11 and 4 of 1910-11.

All these four cases were instituted under the Infant Marriage Regulation and resulted in the conviction of the accused.

13. Miscellaneous cases and petitions.

A petition numbered as Mis: No.62 of 1910-11 was filed on 30-5-1911 and it was passed therein that ~~in which it was asked that~~ the order of the City Magistrate of Bangalore discharging the second accused in a case before that Magistrate might be revised. The delay that occurred between that date and the 29th December 1911 when the records of the case were sent to the Chief Court in connection with the Criminal Revision Petition which the 1st accused in the case had filed against his conviction was commented upon by the Chief Court in the following terms :-

" The Chief Court observes with regret the delay that has occurred in the District Magistrate's Court in disposing of the applications for review of the order discharging the second accused. The District Magistrate knew that the trial of the Original case was lying over pending his order on this application, as he had called for and retained all the records. Yet he took from 30-5-1911 until 29-12-1911 to dispose of it. The reasons given in the order ~~for~~ short for the various adjournments cannot be considered satisfactory. Five months elapsed before even the case for the admission of the petition was heard and the order finally made is one that could have been passed on the very day the petition was presented. This delay of 7 months was wholly unnecessary and a pure waste of time."

14. With these remarks the record of the case came to this Office on 31-8-1912. But ~~I find that~~ the case was taken up by the District Magistrate only on 7-11-1912½, 69 i.e., more than 2 months after. The case was not disposed of on that day, for it was adjourned to 20-11-1912 for the simple reason that the petitioner wanted an adjournment. On 20-11-1912, the petitioner was present but the counter petitioner was absent. The petitioner was, however, heard and order was reserved. On 31-12-1912, i.e., 1 month and 11 days after, the Magistrate passed the following order:

' The City Magistrate has not recorded his reasons for discharging the 2nd accused. From the perusal of the records, there appears to exist sufficien grounds for proceeding further against the said accuse person. The records are therefore returned and the City Magistrate is directed to further enquire into the case and dispose of it according to law'.

15. It is hardly necessary for me to point out that for writing a simple order such as this, (assuming that it is an order which fulfils all the requirements of the law) 1 month and 11 days were not necessary. This order, it may be further noted, was passe 4 months after the receipt of the Chief Court's order commenting on the delay on the part of this Magistrat in disposing of ~~this~~ the case, and about one year and seve months after the date on which the Revision Petition was filed by the complainant asking the District Magistrate to set aside the order of discharge passed upon the 2nd accused. The result now is that this accused person has to undergo a retrial one year and 9 nine months after the date on which he/was discharged by the City Magistrate.

16.

16. The next case that calls for notice is Mis: No. 66 of 1909-10. In this case, the Sub Division Magistrate of Bangalore dismissed a complaint under section 203 C.P.C. on the ground that the Courts in Bangalore had no jurisdiction to try the offence committed by the accused. The District Magistrate set aside that order and directed further enquiry to be made into the complaint. The order of the District Magistrate was ~~case~~ reversed by the Chief Court and he was directed to dispose of the case after issuing a notice to the accused. After the receipt of the Chief Court's order and of the records of the case, the old papers were separated and filed in the Records ROOM and a fresh number was given to the order of the Chief Court, viz, Mis: No. 12 of 1911-12. This is a very extraordinary procedure for which no warrant exists in any law or rule having the force of law. The date of institution is then shown in column 10 of Register No. III as 8-9-1911, which is neither the date on which the petition was originally filed (24-6-1910), nor the date on which the Chief Court's order was received, viz, 14-8-1911. It is a very remarkable circumstance that this error was committed in spite of the fact that the Chief Court had expressly stated in its order that the District Magistrate was to retake Criminal Revision Petition No.66 of 1909-10 on his file and to dispose of it in accordance with law.

page 50 of the Digest

17. It is further remarkable that there is no note on Criminal Revision Petition No.66 of 1909-10 to show that it was converted into Criminal Revision Petition No. 12 of 1911-12. This defect has now been supplied by me.

18. The several orders passed in the case subsequent

subsequent to the remand are shown below as indicative of the manner in which cases are dealt with by this Magistrate.

9- 9-1911	Post the case for hearing on 24-10-1911.
24-10-1911	Adjourned sine die.
22-11-1911	Post the case for hearing on 22-12-1911 and issue notice to the parties.
22-12-1911	Mr. C.V.N. states that he has not yet received instructions (the only point for determination being one of jurisdiction, it is not apparent what instructions are necessary). Case adjourned to 9th January 1912.
9- 1-1912	Adjourned to 19th instant for want of time.
19- 1-1912	Issue notice to both parties. Adjourned to 22-2-1912.
22- 2-1912	Owing to pressure of work adjourned to 27th Messrs. C.S.D. Iyer and C.V.N. were informed.
27- 2-1912	At the request of advocates on both sides, the case is adjourned to 6-3-1912.
6- 3-1912	Heard Messrs. C.S.D. and C.V.N. Reserved for orders.
15- 4-1912	Orders passed".

19. The final order is as follows :-

"I see no reason to differ from the opinion already held regarding the question of jurisdiction. The records will be sent to the Assistant Commissioner and 1st class Magistrate, Dodballapur Sub Division for disposal."

20. Thus the District Magistrate took 7½ months to pass final orders in ~~the~~ this case after the receipt of the remand order from the Chief Court, and such orders were passed six weeks after the case had been closed and reserved for orders

21. Criminal Revision Petition No. 31 of 1912-13 was presented on 12-12-1912 by the advocate for the petition-

petitioner. The petition was for a revision of the order of discharge passed by the Amildar Magistrate of Bangalore Taluk. The case was posted to 10-1-13, on which date the District Judge Magistrate being on Jamabandy duty, the case was adjourned to 29-1-13. On ~~the~~ this latter date, owing to want of time, the case was postponed to 28-2-13 (nearly a month after). The order sheet does not show what happened on 28-2-13. The next order in the order sheet is dated 14-3-13. On that day, the case was adjourned to 28-3-13 for want of time. It was again adjourned at the request of the petitioner's advocate to 4-4-13 on which date it was finally disposed of.

22. Mis: Case No. 36 of 1912-13.

This was a petition for the transfer of a case of theft of paddy crop from the file of the Amildar and 2nd class Magistrate of Channapatna to that of another Magistrate. The petition was filed on 4-1-13 by the advocate for the accused. On the petition the following note is made, namely, "The case is posted to 14-1-13", but in the order sheet the order is :- "Post the case for hearing on the 30th Instant". Both these entries are, as usual, in the handwriting of the Court clerk. On 14-1-13, further proceedings before the lower court were ordered to be stayed and the accused was directed to be released on bail. The bail order as well as the stay order are also in the handwriting of the clerk, though signed by the Magistrate. The amount for which the petitioner was to give bail is not stated in the order. Nor is there anything to show how many sureties were to execute bail bonds and in what sums.

23. To find out how ~~f~~ effect was given to the above

above vague order of the District Magistrate, the District Magistrate's Office was asked to send for a copy of the bail bond or bonds which had been executed before and accepted by the Amildar Magistrate, and it was found that one surety had executed a bail bond for Rs. 100 and that the Amildar Magistrate had accepted the ~~surety~~ security as sufficient.

24. Coming now to the action taken by the District Magistrate after the accused was released, we find that on 30-1-13 the case was adjourned for want of time to 25-2-13, that it was again adjourned to 26-2-13, that on this latter date it was again adjourned to 14-3-13, ~~when the Arguments of Mr. A.V. Narayanaswamy were heard. But the Magistrate did not~~ The Magistrate did not either adjourn or dispose of the case on that day. On 29-3-13, however, the Magistrate took up the case and passed an order transferring the case to the file of the Assistant Commissioner and First class Magistrate of Closepet Sub Division.

25. The following table ~~gives an idea of~~ shows what the delay ~~that has taken place~~ was in the disposal of the remaining applications for transfer.

No. of the case.	Filed on	Heard and Order Reserved.	Date of Order.
Cr.No.49 of 11-12.	11-6-1912.	24-8-1912.	12-9-1912.
Cr.No.25 of 12-13.	4-11-1912.	6-12-1912.	30-12-1912.

26. Register No. III.

This Register is torn and requires to be rebound. The name of the Court is mentioned only on the first page of the Register. The institutions according to this Register were as follows :-

1906-07.....49

1907-08.....62

1908-09.....91

1909-10.....66

1910-11.....65

1911-12.....49

1912-13 upto date 56

The section of the Criminal Procedure Code or other law is not noted in the column 3 (see for example Case No. 48 of 1910-11).

27. Mis. No. 42 of 1912-13 was a petition for the revision of the order of discharge passed by the Amildar Magistrate of Hoskote Taluk. It was filed on 15-2-1913. The District Magistrate apparently without looking into the application 'forwarded' it for disposal to the Assistant Commissioner and 1st class Magistrate of Dodballapur Sub Division. But this Officer finding it to be an application for revision under section 437 C.P.C. and not an appeal, sent it back to the District Magistrate who then discovered his mistake and began to deal with it himself. The first thing noticeable about this case is that the amount of court fee paid on the petition and the amount of fee paid on the Vakalat were not entered in the Court Fees Register under date of 15-2-1913 when the petition was presented to the District Magistrate's Court, but were entered on the 24th idem when the application was transferred to the Sub Division Magistrate for disposal. Another error committed is that the clerk or other person who keeps the said Register cancelled the stamps on the 25th February 1913, whereas he ought to have, according to his own view of the matter, cancelled them on the 24th idem.

28. Criminal Revision Petition No. 12 of 1912-13

Presented on 22 - 8 - 1912.

The following are the orders passed on this petition : -

22-8-1912.	Call for records and post the ~~xxxx~~ case for hearing on 9.10.12.
9-10-1912.	For want of time the hearing is adjourned to 5.11.12
5-11-1912.	As the District Magistrate is on leave hearing is adjourned to 19.11.12
19-11-1912.	As the records are not yet received the hearing is adjourned to 10.12.12
10-12-1912.	At the request of the advocate ~~xxx~~ hearing adjourned to 7.1.13
7-1-1913.	For want of time hearing adjourned to 28.1.13
28-1-1913.	For want of time adjourned to 14.3.13
14-3-1913.	- do - - do - 28.3.13
28-3-1913.	At the request of the advocate hearing adjourned to 4-4-13
4-4-1913.	Heard the "counsels" on both sides Order reserved.
8-4-1913.	Application rejected.

The first observation to be made in connection with this case is that the order of adjournment under date 19-11-1912 is meaningless and quite misleading, since the records had not been sent for

prior

prior to that date and were as a matter of fact sent for only on 20-11-1912.

Secondly, the subsequent orders of adjournments show that there was an utter absence of a desire on the part of the District Magistrate to dispose of the case with promptitude.

29. REGISTER No. VI.
(Appeals)

The number of appeals instituted in this Court in the years subsequent to the date of the last inspection was as follows:-

Year	No. of Appeals.
1906-07.....	43.
1907-08.....	61.
1908-09.....	83.
1909-10.....	55.
1910-11..	35.
1911-12.....	41.
1912-13 up to date	40.

30. During the time Mr. Sparkes was the presiding officer of the Court, there was hardly any delay in the disposal of the appeals. They were disposed of with equal promptitude by Mr. D.Devaraja Urs when he was in charge of the Court. But there appears to be much delay in the disposal of appeals by the present District Magistrate. I am not in possession of the necessary figures which will enable me to determine what the exact average duration of the appeals disposed of by this Officer is; but the following figures relating to some of the cases disposed of by him show that he is generally slow in disposing of his appellate work :-

No. of Appeal

No. of Appeal.	Date of presentation of appeal.	Date on which appeal was heard.	Date of delivery of judgment.	Interval between the date of hearing & the date of judgment.	
				months.	No. of days.
58 of 1907-08.	6-6-1908	22-7-1908	23-9-1908	2	- 0
8 of 1908-09.	18-7-1908	21-10-08.	28-11-08.	1	- 7
13 of ,, ,,	3-7-1908	24-9-1908	28-11-08.	2	- 4
30 of ,, ,,	5-9-1908	22-10-08.	28-11-08.	1	- 6
43 of ,, ,,	3-11- 08	3-12- 08	17-2-1909	2	- 14
5 of 1909-10.	12- 8 -09	10- 9 -09	24-12- 09	3	- 14
20 of ,, ,,.	5- 2 -10	8 -4 -10	2 - 6- 10	1	- 24
24 of ,, ,,	19- 2 -10	30 -3 -10	19- 9-10	5	- 19
30 of 1911-12.	29- 1- 12	27- 2 -12	10- 8 -12	5	- 13
32 of ,, ,,	30- 1 -12	5- 3 -12	15- 4 -12	1	- 10
33 of ,, ,,	23- 2 -12.	24- 6 -12	19- 8 -12	1	- 25
35 of ,, ,,	4- 4 -12	28- 6 -12	27-12 -12	6	- 0
37 of ,, ,,	11- 4 -12	9- 7 -12	9- 8 -12	1	- 0
41 of ,, ,,	11- 6 -12	9- 7 -12	27-12 -12	5	- 18
1 of 1912-13.	17- 7 -12	7-10 -12	23-11- 12	1	- 16
7 of ,, ,,	4-11- 12	25- 2 -13	29- 3 -13	1	- 4
10 of ,, ,,	6-12 -12	25- 2 -13	28- 3 -13	1	- 3
11 of ,, ,,	9-12 -12	14- 3 -13	8 - 4 -13	0	- 24
12 of ,, ,,	9-12 - 12	14 -3 -13	9 - 4 -13	0	- 25

21. Criminal Appeal No.41 of 1911-12 was against the conviction and sentence passed by the Amildar Magistrate of Kankanhalli Taluk. On 5-6-1912

5-6-1912 the accused was sentenced to undergo rigorous imprisonment for 20 days. The appeal was filed on 11- 6-1912 by Messrs Hoover and Ponniah. The judgment was not pronounced till 27-12-1912 or until 5 months and 18 days after. The conviction and sentence were set aside. The accused was,however, on bail.

32. Criminal Appeal No. 10 of 1908-09.
,, do ,, No. 2 of 1910-11.

One Andumiah was convicted by the Amildar Magistrate of Channapatna of the offence of theft under section 379, I.P. Code and sentenced to undergo 3 months' rigorous imprisonment and to pay a fine of Rs. 20 and in the event of default to undergo one month's additional imprisonment. The accused preferred an appeal on 29-11-1908 and it was numbered as Criminal appeal No. 10 of 1908-09. On 15-9-1908 the District Magistrate set aside the conviction and sentence and acquitted the accused. The Chief Court set aside the order of acquittal and remanded the appeal for fresh decision by their order on Criminal Revision Petition No. 93 of 1908-09. The case, after the receipt of the order of the Chief Court, was wrongly treated as a new case, a fresh number having been given to the appeal, viz., No. 2 of 1910-11. Then the District Magistrate passed the following judgment, a judgment which as has been repeatedly held by the Courts in British India as well as by the Chief Court, is no judgment at all, since it does not comply with the requirements of section 367, Criminal Procedure Code :-

" On a further perusal of the records and a reconsideration of the entire circumstances of the case, it is difficult for me to believe the story of the

prosecution to be true. Hence the accused is acquitted

33. Criminal appeal No. 7 of 1912-13. The judgment in this case is also open to the same observation.

34. Criminal appeal No. 33 of 1911-12 was filed on 23-2-1912 and after 6 adjournments was brought on for final hearing on 29-6-1912. On this date, the parties were absent and judgment was reserved. But judgment was passed (dismissing the appeal) only on 19-8-1912, that is, 50 days after the date on which judgment was reserved.

35. During 1910-11, 26 appeals out of 35 filed were transferred to the Sub Divisional Magistrate of Doddballapur. The number transferred in 1911-12 was 19 out of 41 filed. It is a curious circumstance that appeals filed in this Court and transferred to Sub Divisional Magistrates for disposal, are not entered in the Register No. VI at all.

36. The following omissions were noticed in some of the columns of the Appeal Register.

(1) Column 5 (receipt of records) is left blank as against Criminal appeals Nos. 30 of 1909-10, 2 of 1910-11, and 14 of 1910-11, although records were received in these cases.

(2) No entry made in column 7 (date when heard) as against appeals Nos. 30 of 1909-10, 12 of 1910-11 and 14 of 1910-11.

(3) On 24-3-1913, 10 appeals, viz., Criminal Appeals Nos. 17, 18, 19, 23 to 29 of 1912-13 on the file of the Assistant Commissioner and

and 1st class Magistrate of Dodballapur Sub Division were sent back to the District Magistrate, as Mr. Venkata Rao (the Sub Divisional Magistrate) had been appointed Under Secretary to Government and his successor (Mr. C.S. Kuppusami Iyengar) had not been empowered to hear appeals. Up to 27-3-1913 nothing was done regarding these appeals. They were not even registered (as they should have been) in Register No. VI of this Court; neither were the stamps punched and entered in Register No. XI. It was only subsequent to the above mentioned date that the necessary entries were made in Register No. VI and that dates were fixed for the disposal of the appeals.

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* 85

REGISTER No. VII.

37. The entries in this Register were compared with those of Register No. XIV (Cash Book) and found to tally. One item of Rs.2 relating to Sessions Case No. 10 of 1906-07 against serial No. 3 of the Fine Register for the year 1906-07, was sent to Treasury on 31-8-1908, and was credited there on 1-9-1908. But there is no entry in the Cash Register about the receipt of this amount, and hence it is not possible to say whether or not it was sent to the Treasury on the day on which it was received.

38. All sums recovered as fines were remitted to the Treasury, the acknowledgement of the Treasury Officer being obtained thereto. I think it will be desirable to enter the amounts in column 16 in figures as well as in words.

39. A note to the effect that a sum of Rs. 800 was ordered to be refunded by order of the Chief Court in Criminal appeal No.178 of 1906-07, has not been made in the Fine Register.

40. <u>Register No. XIV (Cash Book)</u>. The entries in this

this Register are posted up to date except that the entry of receipt of Rs.2 in connection with case No. 10 of 1906-07 (already referred to), has not been made in it.

REGISTER No.IX.

41. Only properties seized by the Police and produced before the Magistrate under section 523, Criminal Procedure Code, are entered in this Register. Properties produced in cases dealt with by the District Magistrate under section 349 of the Code are not brought into this Register at all. It is stated that these latter properties are not entered as they are produced in cases which are not directly instituted in this Court. This is undoubtedly a wrong view. Such properties should find a place in Register No. IX, equally with properties disposed of as unclaimed under sections 523 and 524.

REGISTER No.XI. (Court Fees).

42. The stamps are not properly punched, as the excised pieces are left sticking to them. Nor are they cancelled with a combined date and name stamp. It is said that there is no such stamp in this Court. This is remarkable. No time should be lost in obtaining one. The responsibility of maintaining this Register is cast upon a peon in the Taluk Office who has been deputed to do clerical work in this Office, and no check is exercised over the entries made by him either by the judicial Head Munshi or by the District Sheristadar. The result is that there is not a reliable account in regard to the receipt of stamps. In many instances, the stamps affixed to petitions and vakalats have not been entered in the Register at all. The Court fee of 8 annas affixed to petition in Criminal Mis. No. 26 of 1911-12 and the fee of one anna which a copy application presented in Mis. 37 of 1912-13 on 21st December 1912 bears, do not find a

a place in this Register. The same is the case with two eight annas stamps affixed to Vakalats in Mis. Nos. 62 of 1910-11 and 31 of 1912-13 . Nor are the entries made in chronological order. (vide for instance the following entries :- 25-2-1913; 24-2-1913; 27-2-1913; 24-2-1913; 7-3-1913; 8-3-1913; 7-3-1913).

RECORDS

43. None of the Miscellaneous cases examined, whether pending or disposed of, bears a facing sheet. The records are all folded up and not stitched in book form. None of the pending Miscellaneous cases contains an index, and though some of the cases disposed of are indexed, the instructions as to the numbering and marking in the index of each paper as appertaining to part I or II, are altogether disregarded.

44. In many instances applications received do not bear the initials of the receiving officer, while in some even the date of presentation and the name of the person presenting are not noted on the application. (Vide for example Criminal Mis. Nos. 62 of 1910-11 and 26 of 1911-12 and Mis. Nos. 31 and 35 to 44 of 1912-13).

45. The judgments and orders pronounced by the Magistrate are not dated by him at the time he pronounces them, as required by section 367 of the Criminal Procedure Code.

CAUSE LISTS.

46. The rules requiring preparation of weekly cause lists published on page 19 of the Digest are not at all followed in this Court. The parties and advocates do not know when cases would be taken up and when judgments would be pronounced in cases in which the court takes

takes time to consider its judgment.

47. THE DISTRICT MAGISTRATE'S RECORD ROOM.

1. The records of cases disposed of by the four Assistant Commissioner Magistrates ~~xxx~~ in the District, viz., (1) City Magistrate, (2) Closepet Sub Divisional Magistrate, (3) Dodballapur Sub Divisional Magistrate and (4) Bangalore Sub Divisional Magistrate, and the records of cases disposed of by the District Magistrate, are all preserved in this Record Room.

2. The records relating to each court are not kept separate, the records of one court being found mixed up with the records of another court.

3. There is no Register maintained to show the number and description of records received and the number and description of records sent out for reference.

4. Nor are the records of cases sorted into parts as required by the rules.

48. The records, books and papers liable to be ~~destroyed~~ destroyed are all thrown in a state of confusion, and no paper has till now been destroyed as required by R.P. No. 77 dated 7-12-1907, though there are thousands of records more than twenty years old in regard to which such destruction has to take place. Early steps should be taken to remedy this unsatisfactory state of things. It is not apparent why no action was taken in this respect, although the matter, it would appear, was ~~commented~~ remarked upon, ~~I understand~~ by Mr. Justice Staley ~~in his inspection notes~~ when he inspected the Court on 22nd February 1906.

Facing page be quite right

49. I note with regret that the records of the recently constituted court of the Bench of Magistrates have not yet been sent to this Court, although that court came into ~~xxx~~

into existence in 1909.

50. The Library consists of

(1) The Mysore Law Reports.
(Volumes 1, 7,13,15 and 18 are missing).

(2) Mysore Chief Court Reports. (The Volumes have not been bound and the several parts relating to the years subsequent to 1903 are piled up without being bound, so that it is difficult to say how many parts are wanting).

(3) Several monthly parts of different volumes of the I.L.R. Series which were subscribed for in former years and which are now of little use (These may perhaps be sold and the proceeds credited to Government).

(4) Dr. Swaminathan's Criminal Procedure Code.

(5) The Mysore Code.

(6) The files of the Rules of Practice and the Circular letters issued by the Chief Court (not complete) [Vide for instance R.P. 79]

51. Out of 14 Courts in the District, only one Court, viz., Devanhally Amildar Magistrate's Court, was inspected by the District Magistrate during the current official year.

(Sd) P. S. Krishna Rao,

Chief Judge.

A.V.

"Copy"

Ag. Registrar.

3

G.R.S. 28.]

Confidential

49

3 copies

Courts

File No. 344-12

Serial No. 2

Diary No. of letter replied to

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.

( )

, the 19

Date of issue 11-9-13

Signed by M. K. Srinivasa, Dewan

READ--

Letter No: 4300/334 dated the 19th June 1913 from the Registrar Chief Court of Mysore, forwarding a copy of the Notes of Inspection of the Court of the District Magistrate of Bangalore made by the Chief Judge on the 27th March, 2nd & 14th April 1913

ORDER THEREON--No.

Order thereon No: J 891-2

The chief defects noticed over

SUBJECT.

noticed by the Chief Judge are :-

1) that there is much delay in the disposal of cases;

2) that ~~order~~ judgements ~~are not~~ do not comply with the requirements of ~~written as required by~~ the provisions of Section 367 of the Criminal Procedure Code;

3) that no attempt has been made to have the records arranged according to rules & that destruction of records has not been attended to;

4) that the rules of practice regarding the maintenance of registers, preparation of cause lists and pinching of stamps maintenance of stamp accounts have not been followed ~~in~~ in many cases; and

5) that ~~all~~ the Subordinate Courts ~~except one~~ have not been inspected.

2. Govt. observe that unless the District Magistrate pay more attention to proper

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

and regular despatch of criminal work and set a good example themselves, it can hardly be expected that they will be able to efficiently supervise the work of ~~subordinate~~ subordinate Magtes. Govt. regret that Mr Kumarasami Naik has failed in almost every way as regards this important branch of work and cannot help expressing their displeasure. They trust that this will serve as a due warning against similar neglect in the new district to which he has been lately transferred.

Secretary to Govt

4/7/13

To

The Regr. Chief Court Bangalore

Mr. B. G. Kumarasami Naik

~~Dy~~ 1st Magte Tumkur

E & R Dept

6

Communicating to all the Dist. Mgts. the irregul arities brought to notice during observations of Govt on the result of the inspection of the Court of the Addl Dist. Mgtes.

G.R.S. 28]

9/9 3658

Diary No. of letter replied to

Swoaffs ab

cls File No. 344-12
Serial No. 3

Proceedings of the Government of His Highness the Maharaja of Mysore

GENERAL AND REVENUE SECRETARIAT.
( )

, *the* 191 .

Date of issue 23.9.13

Signed by M S Rajappa
for

READ—

Letter no. 4300/334-8 the 19th June 1913, from the Registrar, Chief Court of Mysore, forwarding a copy of the note of inspection of the Court of the Dist. Magistrate

~~ORDER THEREON. No.~~

made by the Chief Judge on

Order Thereon no. J 1058-65

The Chief defects noticed by the Chief Judge are :-

M. over.

SUBJECT.

1) That there is much delay in the disposal of cases;

2) That judgments do not comply with the requirements of the provisions of Sec^n 367 of the Crl. Pro. Code;

3) That no attempt has been made to have the records arranged according to rules and that destruction of records has not been attended to;

4) That the rule of practice regarding the maintenance of registers, preparation of cause lists and punching of stamps and maintenance of stamp accounts have not been followed in many cases and

5) That the subordinate courts except one have not been inspected.

2. Govt observe that unless the Dist. Magis take pay

GPB—20,000—2-10-11

more attention to proper and

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

and regular despatch of Criminal work and set a good example Themselves, it can hardly be expected that they will be able to efficiently supervise the work of Subordinate Magts. Gat report that Mr. ..... has failed in almost every way as regards This important branch of work and cannot help expressing their displeasure. They trust that This will serve as a due warning against similar neglect in future. .....

Sd/ Seen to Gat

To The Dist. Magts of Dists.

NM

18/9

文 Mg. - 116
16.9.13

Exd NM

Two d/s

G. R. S. 26]

cs File No. 344-12

Requesting that the cs of dist. mgts may be inspected & result reported to Govt.

Serial No. 4

Diary No. of letter replied to

No. J 1057

General and Revenue Secretariat

( )

, *the* 191 .

To

Dear Sir,

I am desired to invite your attention to Govt Rop No J 891-2/cs 344-12-2 dy 11.9.13, Chan reviewing the note of inspection of the court of the Dist. Mgte of Bangalore made by the Chief Judge, and to request that the courts of the other Dist. Mgts. may similarly be inspected by the Chief Court and the result reported to Govt.

Yr Sincerely

Date of issue 23.9.13

Signed by Mr SP Narasimhaiah

To V. A. Rajanaika Avadhani Esq Registrar, Chief Court

over.

SUBJECT.

Leg-116 16.9.13 MK

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Sect